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January 16, 2013

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street SW
Room TW-A325
Washington, DC 20554

Re: Petition of Border to Border Communications for Waiver of Section 54.302 and the Framework to Limit Reimbursable Capital and Operating Costs; Connect America Fund, WC Docket No. 10-90 , Ex Parte Filing

Dear Ms. Dortch:

Border to Border Communications, Inc. ("Border") filed its Petition for waiver on June 29, 2012 in which it demonstrated that without waiver of Section 54.302 and the limits on reimbursable capital and operating costs it would necessarily default on its obligations to the U.S. Rural Utilities Service ("RUS") and would be unable to continue operations, leaving many subscribers without voice or broadband service from any source. Subsequently, the Wire Line Competition Bureau granted Border's request to correct the study area boundaries used in its regression analysis model with the counterintuitive result that Border's recoverable expenses were limited even further.¹ Also, Border was notified in November by RUS that no further loan fund advances would be approved until the Commission acts on Border's Petition.² The result of the RUS action is that Border is unable to respond to requests for additional services from subscribers or potential subscribers for voice or broadband service, or to requests improvement of service to other existing customers. No alternative supplier is available.

In addition, as a result of a 300' tower collapse at the company's remote office site of Ovejas, seven existing customers are receiving service via a rented trailer mounted tower. The quality of service provided is very poor due to the height of the temporary tower. Border's plans to construct fiber facilities to the seven (7) customers affected have necessarily been put on hold because of the RUS suspension of any further advances of loan funds.³ As a result these customers are in a precarious position and one has disconnected service pending placement of fiber cable to the ranch location.

¹ *Connect America Fund*, Order, DA-12-1581 (WCB 2012)

² Letter from David Cosson to Marlene H. Dortch, November 21, 2012

³ The fiber project was at the point of being sent out to contractors for bid.

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In addition, the placement of fiber facilities to certain cellular towers is urgently needed but, cannot be constructed due to the lack of needed capital. Plans to improve and provide additional services to other existing customers in the system are also on hold pending FCC action on the Border waiver.

Border has shown on the record that its financial circumstances are such that it is urgently in need of relief in order to continue to provide its current voice and broadband service and to meet existing and future consumer requests for service. Border is currently in a negative cash flow environment.⁴ In the event that the Commission is not able to act promptly on the Petition, Border requests that it be provided interim relief similar to that granted other companies in similar circumstances.⁵

Please address any questions regarding this information to me.

Sincerely yours,

David Cosson

Counsel to Border to Border Communications, Inc.

Attachments A, B. & C.

cc: Rebekah Goodheart
Joseph Cavender
Gary Seigel
Joseph Sorresso
Christopher Cook

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Id.

⁵ *Accipiter Communications, Inc. Petition for Temporary Waiver of Certain High-Cost Universal Service Rules*, Order, DA 12-2016, released Dec. 20, 2012. The Accipiter Order considered among other factors, the company's corporate operations expense to unseparated revenue requirements ratio. Border's Petition provided a corporate operations expense for 2011 of \$536,073. That figure included expenses related to unregulated activities. The correct number is \$489,677 which divided by the revenue requirement of \$1,477,293 yields a ratio of 33%.